

Florence, New Jersey 08518-2323
September 27, 2011

The regular meeting of the Florence Township Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Fratinardo called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Member Taylor then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Chairman Fratinardo stated that Member Taylor would act as secretary in the absence of Secretary Montgomery.

Upon roll call the following members were found to be present:

Brett Buddenbaum	B. Michael Zekas
John Fratinardo	Robert Adams
John Groze	William Bott
Candida Taylor	

ABSENT: Keith Crowell (excused)
Ray Montgomery (excused)
Planner Bob Perry (excused)

ALSO PRESENT: Solicitor David Frank
Engineer Dan Guzzi

Chairman Fratinardo stated that Member Zekas recused himself as he was the applicant in the first application this evening.

Chairman Fratinardo announced to the public that Application ZB#2011-09 for Silvia Secelean and Application ZB#2011-15 for Effisolar Energy Corporation had both requested continuations until the October 25, 2011 meeting. No additional public notice would be given by either of the applicants.

Motion of Adams, seconded by Bott to continue both applications (Secelean and Effisolar) to the October 25, 2011 meeting. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Fratinardo, Groze, Taylor, Adams, Bott
NOES: None
ABSENT: Crowell, Montgomery

Chairman Fratinardo called for Application ZB#2011-14 for B. Michael and Michelle T. Zekas. Applicant is requesting bulk variances for impervious surface coverage and alley

setback to permit installation of an in-ground swimming pool on property located at 313 Spring Street, Florence.

After being sworn in, Michael Zekas stated that he was requesting a variance to install an inground swimming pool at his residence at 313 Spring Street. The proposed pool is 12' wide by 24' long. The requested variances are for increasing the impervious coverage up to 41% where 25% is permitted and to locate the pool 6' from the municipal alleyway where 10' is required.

Mr. Zekas stated that he had submitted an application to this Board in 1995 and was granted a variance to install an above ground pool. The variance that was granted at that time allowed increasing the impervious coverage from 32.5% to 41% and allowed locating the pool 6' from the municipal alleyway. He stated that his above ground pool was in use since 1995 and was taken down in early September 2011 in anticipation of installing the inground pool.

Mr. Zekas stated that he submitted a survey and a sketch plan for the proposed pool location, which is the same exact location where the above ground pool was located. He submitted exhibits A1 through A6, a series of pictures of his rear yard and the pool location.

Mr. Zekas stated that A1 is a picture of the rear yard looking west (from front to back). A2 is similar to A1 with a closer view of the existing garage. A3 is the former pool location looking west. A4 is the same former pool location taken from a higher elevation. A5 is the rear yard looking east and shows the rear of the house, the fence along the municipal alley and the former pool location. A6 is from the rear yard looking east (from back to front), showing the back of the home and a large maple tree in the back yard.

Mr. Zekas said that the proposed pool is slightly smaller than the previous pool which was 15' wide by 24' long pool. He stated that he expects to reduce the coverage to approximately 37%, but he submitted an application to allow coverage up to the prior variance coverage of 41%. This is primarily because of construction details that haven't been discussed with the pool installer yet. For example, the pool plan that the pool company submitted with the application showed a 3' concrete walkway around the pool. Mr. Zekas stated that he does not plan to have this installed. He said that he plans on having a 1' coping around the top of the pool and will use pavers on one side of the pool for chairs and recreational area. He stated that his goal is to come in at 37%, but there may be a requirement to have concrete around the top of the pool.

Engineer Guzzi stated that Mr. Zekas was requesting 41% to allow for a concrete surround around the pool. Mr. Zekas stated that this was correct but added that it was his desire to only have 1' concrete surrounding the pool.

Mr. Zekas stated that impervious coverage of 40% is not unique for the neighborhood. He listed neighboring properties, including 300 Spring Street, 321 Spring Street, 222

West Third Street, 214 West Fourth Street which all have similar impervious coverages; as well as 301 West Third Street, 47 West Fifth Street, 25 West Sixth Street and a house on Winter Street that all have in ground swimming pool. The pool at 25 West Sixth Street is very similar to the application as the pool is also located 6' an alley which houses sewer utilities.

Mr. Zekas stated that he requested the 6' alley setback for several reasons. First it provided the greatest safety, security and privacy. He said that all the inground pools that he has seen were located behind the house. You can see on the survey that the house is located on the property line adjacent to the alley. He stated that there is space to over the pool closer to the yard, but if he moved the pool over then he would want to put up a privacy fence in the front yard. Mr. Zekas stated that this location is also the optimal location to avoid interference with mature trees on the property. He stated that there is a large maple tree in the yard that has significant root structure. Locating the pool more to the southerly side of the yard would result in damage or removal of that tree. Mr. Zekas said that he would also like to avoid impeding access to his garage. He said that he goes back and forth to the garage several times a day and locating the pool in front of the garage would create an obstacle.

Mr. Zekas said that the proposed location promotes the best unobstructed use of the remaining green space that is left in the yard. Plus this area in the yard that gets the most sun.

Solicitor Frank asked how high the previous pool was from the ground. Mr. Zekas stated that it was a 4' high pool. He said that there was a 6' x 10' deck on one side of the pool with a rail around it. Mr. Zekas agreed with Solicitor Frank that the overall height of the former pool was approaching 8' above grade and that replacing it with an in ground pool essentially everything would now be at grade.

Member Taylor asked if Mr. Zekas was confident that there would not be any additional stormwater runoff. Mr. Zekas answered that he has had no runoff issues. He said that when Spring Street was repaved it resulted in more runoff down the alley, but the alley is gravel and dirt and seems to drain well.

Chairman Fratinardo asked Engineer Guzzi if he had any comment. Engineer Guzzi stated that everything had been covered regarding the drainage and the 2 variances required. One is for impervious coverage up to 41% to allow for a concrete surround and the alley setback 6' where 10' is permitted.

Solicitor Frank stated that because the prior pool existed by way of a variance grant as opposed to being a pre-existing non-conformity, the fact that Mr. Zekas removed the pool doesn't signify anything. He continues to have the right without any further action to have an above ground pool. The question is does the Board perceive the inground pool to be any greater a burden on the public good, zone plan or zoning ordinance than the above ground pool was?

Motion was made and seconded to open the hearing to public comment. Seeing no one wishing to offer comment motion was made by Bott and seconded by Taylor to close the public comment. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Fratinardo, Groze, Taylor, Adams, Bott
 NOES: None
 ABSENT: Crowell, Montgomery

Motion of Buddenbaum, seconded by Adams to approve Application ZB#2011-14. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Fratinardo, Groze, Taylor, Adams, Bott
 NOES: None
 ABSENT: Crowell, Montgomery

The Secretary read the time limit for appeal statement to the applicant.

Member Zekas returned to the dais.

MINUTES

Motion of Bott, seconded by Adams to approve the Minutes of the August 23, 2011 meeting as submitted. Motion unanimously approved by all members present.

RESOLUTIONS

Resolution ZB#2011-25

Granting a Use variance and Preliminary Site Plan approval to Effisolar Energy Corporation to permit a solar generation facility on property located at 1019 Cedar Lane, Florence Township. Block 163.02, Lot 9 and Block 164.01, Lot 2.01.

Motion of Zekas, seconded by Bott to approve Resolution ZB#2011-25. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Fratinardo, Groze, Taylor, Zekas, Adams, Bott
 NOES: None
 ABSENT: Crowell, Montgomery

Resolution ZB#2011-26

Granting an Amended Preliminary Site Plan approval and Final Site Plan approval for Phase 1 to Effisolar Energy Corporation to permit a solar generation facility on property located at 1019 Cedar Lane, Florence Township. Block 163.02, Lot 9 and Block 164.01, Lot 2.01.

Motion of Zekas, seconded by Adams to approve Resolution ZB#2011-26. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Fratinardo, Groze, Taylor, Zekas, Adams, Bott
NOES: None
ABSENT: Crowell, Montgomery

CORRESPONDENCE

- A. Review letter from Engineer Guzzi dated September 13, 2011 regarding ZB#2011-12 Nexus Solar, LLC (Fountain of Life Center).

Engineer Guzzi stated that this was related to the compliance plans.

Motion was made and seconded to receive and file Correspondence A. Motion unanimously approved by all members present.

OTHER BUSINESS

- A. Memorandum from Office of the Burlington County Prosecutor dated August 9, 2011 regarding OPMA/Use of Electronic Communications.

Solicitor Frank stated that he had asked that the Board Members be given a copy of this memorandum. The County Prosecutor when reviewing email correspondence between members of Evesham Township Zoning Board of Adjustment determined that they had effectively been holding meetings through email. This was a violation of the Open Public Meetings Act and was potentially prosecutable as a crime. Since the Evesham Board didn't necessarily understand this he would not prosecute at this time, but everybody ought to think hard about these issues.

Solicitor Frank stated that he wants to make sure that the Board understands what type of email is appropriate. He stated that when he emails the resolutions, or any correspondence regarding application out to the Board for review and comment the Board Members should respond only to him and not "Reply All". He also cautioned about round robin discussions.

Chairman Fratinardo opened the meeting to public comment. As there was no one in attendance to offer comment, motion was made by Bott, seconded by Adams to close the public comment. Motion unanimously approved by all members present.

Chairman Fratinardo advised the Board to save the review letters and plans for the two applications that were not heard tonight.

Motion of Taylor, seconded by Bott to adjourn at 8:00 p.m. Motion unanimously approved by all members present.

Ray Montgomery, Secretary